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8 Attorneys for United States of America

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12)	CR 20-71406 MAG
13	UNITED STATES OF AMERICA,)	
14	Plaintiff,)	STIPULATION AND [PROPOSED] ORDER RE:
15	v.)	(1) PRELIMINARY HEARING DATE; AND
16	ADRIAN KYLE BENJAMIN,)	(2) FINDINGS OF EXCLUDABLE TIME PERIOD
17	Defendant.)	

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19 The United States, by and through its counsel, Assistant United States Attorney Mohit
20 Gourisaria, and defendant Adrian Kyle Benjamin, by and through his counsel, Assistant Federal Public
21 Defender Daniel Blank, hereby stipulate as follows:

22 1. On September 30, 2020, the Honorable Jacqueline S. Corley, United States Magistrate
23 Judge, signed a federal criminal complaint charging defendant with Receipt of Child Pornography, in
24 violation of 18 U.S.C. § 2252(a)(2). On October 2, 2020, defendant made his initial appearance and was
25 arraigned on the criminal complaint. A detention hearing is scheduled for October 8, 2020 before
26 Magistrate Judge Nathanael Cousins.

1 2. For scheduling-related reasons, to allow the government to produce and defense counsel
2 the opportunity to review discovery, and due to ongoing discussions about a potential ultimate resolution
3 in this case, the parties agree to schedule the preliminary hearing on December 3, 2020, at 10:30 a.m.
4 Defense counsel further represents that his client knowingly and voluntarily waives the timing for
5 preliminary hearing under Federal Rule of Criminal Procedure 5.1 through December 3, 2020.

6 3. For purposes of computing the date under Rule 5.1 of the Federal Rules of Criminal
7 Procedure for preliminary hearing, and the date under the Speedy Trial Act by which defendant must be
8 charged by indictment or information, the parties agree that the time period of October 8, 2020 through
9 December 3, 2020 should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i) and
10 (h)(7)(B)(iv) because the delay results from a continuance granted by the Court at the government's
11 request, without the defendant's objection, on the basis of the Court's finding that: (i) the ends of justice
12 served by the continuance outweigh the best interest of the public and defendant in the filing of an
13 information or indictment within the period specified in 18 U.S.C. § 3161(b); and (ii) failure to grant the
14 continuance would unreasonably deny defense counsel the reasonable time necessary for effective
15 preparation, taking into account the exercise of due diligence.

16 4. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy
17 Trial Act dictate that additional time periods be excluded from the period within which an information
18 or indictment must be filed.

1 The undersigned Assistant United States Attorney certifies that he has obtained approval from
2 counsel for the defendant to file this stipulation and proposed order.

3 IT IS SO STIPULATED.

4 Dated: October 7, 2020

DAVID L. ANDERSON
United States Attorney

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MOHIT GOURISARIA
7 Assistant United States Attorney

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10 Dated: October 7, 2020

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DANIEL BLANK
12 Assistant Federal Public Defender
13 Attorney for Defendant

14 **[PROPOSED] ORDER**

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16 The Court has read and considered the Stipulation re: (1) the Preliminary Hearing Date; and (2)
17 Findings of Excludable Time Period Pursuant to Speedy Trial Act, filed by the parties in this matter.
18 The Court hereby finds that the Stipulation, which this Court incorporates by reference into this Order,
19 demonstrates facts that support a continuance in this matter, and provides good cause for a finding of
20 excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, as well as to waive the timing for
21 preliminary hearing under Rule 5.1 of the Federal Rules of Criminal Procedure.

22 The Court further finds that: (i) the ends of justice served by the continuance outweigh the best interest
23 of the public and defendant in the filing of an information or indictment within the time period set forth
24 in 18 U.S.C. § 3161(b); and (ii) failure to grant the continuance would unreasonably deny defense
25 counsel the reasonable time necessary for effective preparation, taking into account the exercise of due
26 diligence.

1 THEREFORE, FOR GOOD CAUSE SHOWN:

2 The preliminary hearing in this matter is scheduled for 10:30 a.m. on December 3, 2020. The
3 time period of October 8, 2020, to December 3, 2020, inclusive, is excluded in computing the time
4 within which an information or indictment must be filed under 18 U.S.C. § 3161(b) pursuant to the
5 provisions of 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv). Nothing in this Order shall preclude
6 a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excluded
7 from the period within which an information or indictment must be filed.

8
9 IT IS SO ORDERED.

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DATED

Hon. Jacqueline S. Corley
United States Magistrate Judge